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Forty-eighth session

SUMMARY RECORD OF THE 1149th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 11 March 1996, at 3 p.m.

Chairman: Mr. BANTON

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The meeting was called to order at 3 p.m.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES (agenda item 5) (continued)

Report from Guatemala

1. Mr. YUTZIS (Country Rapporteur) said that the Committee had received the report requested from Guatemala. He suggested that it should be considered at the next session of the Committee.

2. The CHAIRMAN took it that the Committee wished to take no action until the report had been considered. Guatemala should remain on the list under the early warning and prevention procedure, pending a further decision by the Committee in that regard.

3. It was so decided.

Situation in Burundi

4. Mrs. SADIQ ALI (Country Rapporteur) said it was feared that events in Burundi - with the spread of violence and the rising death-toll - could explode into slaughter and genocide. The Government was torn by dissension and too weak to take firm measures to stop the killings. The Hutu President and the Tutsi Prime Minister had accused each other of backing rival militias. The Tutsi militants had been responsible for shutting down all activity in Bujumbura in January 1996, thus demonstrating their grip on the affairs of the country.

5. The United Nations alone was making a real effort to defuse tensions and prevent more violence: the High Commissioner for Refugees had obtained assurances from the Government, in early January, that it would protect United Nations and aid workers and support their humanitarian mission. However, the Security Council was wary of sending a peace-keeping force, mainly because of Government opposition and difficulties in finding troops and personnel. The United Nations Secretary-General had urged the Security Council to review the situation, station a rapid-reaction force on the border with Zaire as a preventive measure and send police guards to protect relief workers. The latter suggestion was opposed even by relief agencies, as it would make the lightly armed United Nations personnel particularly vulnerable. The Secretary-General had appointed a Special Representative for Burundi, and the Security Council had asked the Government to take measures to put a stop to the widespread violence, but had turned down earlier separate requests for the dispatch of United Nations peace-keeping forces and observers. It had, however, strongly condemned the violence, asked neighbouring States to prevent the perpetrators of violence from seeking support abroad and called for an end to radio broadcasts inciting hatred and acts of genocide.

6. In the meantime, the Hutus of Burundi had organized militias to defend themselves. Recent reports indicated that Hutu refugees from Burundi in Zaire were receiving military support from Hutus of the former Rwandan army. Tanzania had offered to intervene militarily in Burundi and restore order,

but the problem of financing was the main obstacle to such an intervention. Hostility between the two ethnic groups was degenerating into random massacres and outright war. Hutu guerrillas had been emboldened by recent successes against the Tutsi-dominated national army, including the sabotage of power plants and the disruption of the capital's water supply.

7. The CHAIRMAN said that it remained for the Committee to decide on any action to be taken in regard to that and other matters outstanding under item 5.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Situation of Madagascar

8. Mr. de GOUTTES (Country Rapporteur) recalled that in August 1995 Madagascar had requested a deferral of the deadline for submission of its periodic report. The Committee had regretted that no report had been received since October 1986, but bearing in mind the country's difficulties it had noted the request and asked it to submit a report for the current session. The report requested had not been forthcoming.

9. Madagascar had undergone a number of political upheavals: the end of the Marxist regime, the transition period, the establishment of the Third Republic, the referendum of September 1995 on revising the Constitution, the change of government in October 1995, and municipal elections in November 1995. Together with the persistent political instability and the alarming deterioration in the economic situation, such circumstances made the delay in submitting a report understandable, although Madagascar ought to have made some contact with the Committee. In accordance with recent practice, therefore, the Committee should draw on all available sources of information in order to prepare a set of questions to be put to the Government of Madagascar.

10. One such source was the ninth periodic report, containing information now largely out of date. Another was the record of the Committee's consideration of that report in August 1989, in the presence of a representative of Madagascar, when the Committee had noted the conflicts between ethnic groups, the violence directed at the Indian, Pakistani and Chinese communities and the inadequate level of compliance with article 4 of the Convention. Thirdly, there was the core document submitted by Madagascar in 1993, containing useful background information on the country, such as its large number of ethnic groups, sociocultural problems, growing poverty, difficulties of access to medical services - leading to a high mortality rate - and an alarming drop in school attendance. It had also contained details of the new Constitution of 1992.

11. Other available information included Madagascar's reports to the Human Rights Committee in 1991 and the Committee on the Elimination of Discrimination against Women (CEDAW) in 1994, together with those committees' observations. There were also reports by the State Department of the United States, by non-governmental organizations and human rights

associations, by the organization Solidarité Madagascar-Suisse in 1994 on the situation of children's rights in Madagascar and by International Women's Rights Action Watch for CEDAW in 1993.

12. On that basis, Madagascar should be urgently requested to provide updated information on the ethnic composition of its population, political developments following the events of the past year and the social situation, particularly the inter-ethnic tensions which apparently persisted. Worst affected were the Indian and Pakistani communities which, although financially well off, were subject to discrimination and occasional violence. More information should also be given regarding the increasing poverty, particularly in rural areas, along with deteriorating access to health services and a worsening situation with regard to schools and school supplies.

13. Information was also required about the economic situation. Essentially agricultural in nature, the economy had suffered from the changes in regime: coffee, vanilla, clove and even rice production had suffered. Rural banditry, meanwhile, had increased. The International Monetary Fund's structural adjustment programme, due to start in November 1993, seemed to have been delayed. The result would be extreme poverty for large sections of the population, which already suffered from inflation, unemployment, inadequate housing, the lack of social protection and the breakdown of public services.

14. Madagascar should also be required to furnish details of the way in which it implemented each article of the Convention. Specifically, it should be asked for details of its criminal legislation for the punishment of acts of racial or ethnic discrimination, in accordance with article 4. That information had already been requested in 1986. The legal procedures through which perpetrators of racist acts could be convicted and compensated, in accordance with article 6 should be specified. Statistics of actual cases would be useful in that context. Details regarding the operation of the judicial system would also be welcomed. Information on the powers of the ombudsman appointed in 1992, and on any success he might have had in combating racial discrimination, should also be provided. Details were required of any measures taken to alleviate the effects of the economic crisis on the most disadvantaged sections of the population with regard to their enjoyment of the rights enunciated in article 5. Of particular concern were the right to health, medical care, social security and social services, given the alarmingly high child and female mortality rates and the difficulty of access to medicines and health services for the poorest sections of the population; according to the Solidarité Madagascar-Suisse and the CEDAW reports, social protection seemed to be confined to a privileged minority. Information should also be given regarding the right to education and training. Children's access to schooling was deteriorating in many parts of the country and there were fewer and fewer - and less well-trained - teachers in rural areas, in contrast to the quality of teaching in the private schools attended by the children of the affluent. At the same time there was a proliferation of videos and video clubs which could account for the high crime rate among disadvantaged youth. Lastly, pursuant to article 7, Madagascar should be asked to give details of measures taken or proposed in the fields of teaching, culture, education and information, with a view to promoting tolerance among racial or ethnic groups, and to indicate what action had been taken on human

rights education and specifically on promoting awareness of the Convention among students, teachers and State officials, including the police and the judiciary.

15. All that information was required urgently. Madagascar should approach the Centre for Human Rights for guidance on how to present its report.

16. The CHAIRMAN suggested that concluding observations regarding the situation in Madagascar should be drafted, of a length and character consistent with other concluding observations, and that the State party should be sent a copy of the summary record to indicate in detail what information was required.

17. It was so decided.

Draft concluding observations concerning the initial report of Zimbabwe (CERD/C/217/Add.1)

Paragraph 5

18. Following remarks by Mr. DIACONU, Mr. SHERIFIS and Mr. van BOVEN, the CHAIRMAN suggested that the first sentence of paragraph 5 should be amended to read: "The record of the governments in power since the independence of Zimbabwe (18 April 1980) in progressively building democracy ...".

Paragraph 11

19. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) suggested that paragraph 11 should read: "Concern is expressed that the parallel system of private schools for parents who can afford them and public schools for others results in a racially segregated school system."

Paragraph 13

20. Mr. VALENCIA RODRIGUEZ (Country Rapporteur) suggested that the last sentence of paragraph 13 should be amended to read: "For example, the descendants of blacks who die intestate inherit according to customary law while whites inherit according to general law."

Paragraph 15

21. The CHAIRMAN, in response to concerns expressed by Mr. YUTZIS, suggested that the word "absence" could be replaced by "insufficiency".

Paragraph 18

22. The CHAIRMAN, responding to comments made by Mr. GARVALOV and Mr. WOLFRUM, suggested that the Committee should agree to a proposal by Mr. DIACONU for the insertion of the phrase "in the areas where minorities live in substantial numbers".

Paragraph 20

23. The CHAIRMAN, taking note of amendments proposed by members of the Committee, suggested that the text could include a reference to the aim of promoting the prevention of racial discrimination.

Paragraph 21

24. The CHAIRMAN, responding to a proposal by Mr. de GOUTTES, said that the paragraph could be amended to read: "More qualitative information is required in the next report concerning the programmes of land distribution ...". A new paragraph 22 could then be inserted, to read: "The Committee also recommends that the next periodic report contain complete information on complaints and sentences imposed for racial or ethnic discrimination."

Paragraph 24

25. The CHAIRMAN responding to proposals by Mr. van BOVEN and Mr. VALENCIA RODRIGUEZ, suggested that the reference to "12 June 1994" should be deleted and the text amended to read: "The Committee recommends that the State Party's next periodic report be comprehensive in character and that it address all the points raised in these concluding observations."

26. The CHAIRMAN said he took it that the Committee wished to adopt the draft concluding observations concerning the initial report of Zimbabwe, subject to amendments proposed during the discussion and possible drafting and editorial changes.

27. It was so decided.

Draft concluding observations concerning the sixth and seventh periodic reports of Colombia (CERD/C/257/Add.1)

Paragraph 9

28. Mr. DIACONU proposed that the phrase "and the security of persons" should be inserted after "the right to life".

Paragraph 12

29. Mr. DIACONU proposed that the second sentence of the paragraph should be amended to read "Such mechanisms should promote full benefit of all human rights by the members of these communities and guarantee life and security as well as actual and adequate participation...".

Paragraph 14

30. Mr. WOLFRUM proposed that the word "encourages" should be replaced by "expects".

31. Mr. DIACONU proposed the deletion of the reference to "political" rights

Paragraph 14 (a)

32. The CHAIRMAN said that he took it that paragraph 14 (a) would become new paragraph 15 in the final text.

Paragraph 18

33. The CHAIRMAN, replying to a comment by Mr. VALENCIA RODRIGUEZ, suggested that the wording and textual position of the paragraph could be altered in accordance with the Committee's standard editorial practice.

Paragraph 19

34. The CHAIRMAN, said that, as with paragraph 18, the Committee's standard editorial practice would be respected.

Paragraph 20

35. Mr. van BOVEN suggested that, in response to concerns raised by members of the Committee regarding the lack of information on certain topics in the report of Colombia, the words "and that it address all the points raised in these observations" should be added at the end of the paragraph.

36. The CHAIRMAN said he took it that the Committee wished to adopt the draft concluding observations concerning the sixth and seventh periodic reports of Colombia, subject to amendments proposed during the discussion and possible drafting and editorial changes.

37. It was so decided.

Draft concluding observations concerning the tenth, eleventh and twelfth periodic reports of Denmark (CERD/C/280/Add.1)

Paragraph 3

38. Mr. AHMADU, supported by Mr. van BOVEN and Mr. CHIGOVERA, proposed that the words "the balancing" in the third line should be replaced by "due balancing".

39. Mr. de GOUTTES, supported by Mr. YUTZIS, said that it would suffice simply to reflect the need for a balance, while making it clear that the Committee did not endorse the judgement of the European Court of Human Rights.

40. Mr. VALENCIA RODRIGUEZ suggested that a reference to the Committee's general recommendation XV should be included in the text of the paragraph.

41. Mr. de GOUTTES regretted that the Committee was obliged to discuss complex amendments on the basis of only one language version of the text.

42. The CHAIRMAN said that the Committee had to work within certain budget constraints. It was understood that members had the right, with regard to any draft concluding observations, to decide which language version would best serve their deliberations.

Paragraph 4

43. Mr. DIACONU proposed that the words "The increase in unemployment" at the beginning of the second sentence should be replaced by "The high level of unemployment".

44. The CHAIRMAN, responding to an observation by Mr. CHIGOVERA, suggested that the word "even" should be inserted before "more important".

Paragraph 10

45. Mr. DIACONU felt that the Committee should not condone the "attempts of municipalities to prevent undue concentrations of ethnic minority families", which might be interpreted as a form of ethnic cleansing.

46. Mr. van BOVEN said that the attempts in question were consistent with the provisions of article 3 of the Convention.

47. The CHAIRMAN suggested that the paragraph should be reworded to read: "The Committee is anxious that the attempts of municipalities to prevent undue concentrations of ethnic minority families in 'socially-burdened' urban neighbourhoods shall not be discriminatory in effect."

Paragraph 11

48. Mr. GARVALOV said that it was wrong to imply that the Committee viewed with equal concern the lack of convictions against racist groups and the granting of licences to such groups to operate a radio station and a telephone number.

49. Mr. WOLFRUM said that the textual position of the last sentence of the paragraph was wrong. It should be included as a recommendation under section E.

50. The CHAIRMAN suggested that the last sentence should be deleted, and that the phrase "with concern" at the end of the second sentence should be expanded to read "with special concern".

Paragraph 14

51. The CHAIRMAN suggested that the phrase "specific policies" should be replaced by "dispersal policies".

Paragraph 15

52. Mr. van BOVEN proposed that the paragraph should be expanded to include the phrase "and calls attention to its general recommendation XV".

53. The CHAIRMAN said it was felt that section E, Suggestions and recommendations, should contain some wording on measures to prevent racist propaganda through radio broadcasting and telephone messages. He therefore suggested that an additional sentence might be inserted, with the following wording: "The Committee recommends that the licensing of groups to operate a

radio station and recorded-message telephone services be closely monitored and that the licences be withdrawn if there is any infringement of article 4 of the Convention".

54. Mr. van BOVEN, supported by Mr. DIACONU, said that, although a Government could be expected to monitor operations and withdraw licences if the Convention's provisions were infringed, it should not be expected to place a ban, at the outset, on organizations whose purposes were not prima facie illegal.

55. Mr. GARVALOV maintained that the very granting of a licence in the first place would contravene article 4 of the Convention.

56. Mr. WOLFRUM suggested that the Committee could refer to paragraph 11 and reiterate the concern already expressed.

57. Mr. YUTZIS emphasized the distinction between the monitoring of existing broadcasting facilities and the granting of licences to racist organizations to operate new facilities; the latter practice should not be authorized.

58. The CHAIRMAN said that a further distinction should be made between refusal to grant a licence and withdrawal of a licence in the case of an infringement.

59. Mr. CHIGOVERA said that it might help to revert to paragraph 11 and amend the words "which people can call" in the second sentence to read "to which people allegedly call".

60. Mr. DIACONU felt that paragraph 11 should be left as it stood, and that paragraph 15 should be expanded to include a reference to recorded messages and telephone services in violation of the Convention, drawing attention also to the Committee's general recommendation XV.

61. Mr. AHMADU thought that the Committee should clearly recommend withdrawal of a licence, and saw no need for a reference to allegations.

62. The CHAIRMAN suggested that, in paragraph 11, the words "which people can call" could be amended to read "to which people allegedly can call", and that paragraph 15 could be expanded by adding: "If the allegations in paragraph 11 above are correct, then the licences should be withdrawn to comply with article 4 of the Convention".

63. Mr. YUTZIS said that his concerns about paragraph 15 would be met by including the following wording:

> "Pursuant to article 4 of the Convention, the Committee recommends that licences should not be granted for the opening of broadcasting stations by racist groups and that there should also be close monitoring and prevention of the broadcasting of racist messages by any broadcasting station."

64. The CHAIRMAN said that he would not, as Country Rapporteur, be in favour of expanding the text in the manner proposed by Mr. Yutzis. If there were to be any addition, he would prefer to add the words "and prosecutions instituted" after "then the licences should be withdrawn". That would amount to recommending stronger action after the infringement was recorded, rather than requiring the State to withhold licences from suspect groups.

65. Mr. van BOVEN said that, with regard to the action recommended, a distinction should be drawn between article 4 (a) which was the subject of paragraph 15, and article 4 (b). If the Committee were to advise the Government to refrain from issuing licences to certain organizations because they were deemed racist, there would be an implicit reference to article 4 (b) requiring the prohibition of such organizations. That raised the different and delicate issue of censorship. The need to strike an appropriate balance between freedom of expression and dissemination of racist ideas and incitement to racist acts should be taken into account.

66. Mr. WOLFRUM endorsed Mr. van Boven's views, adding that, under the Convention, if an organization was deemed racist, it should be dissolved and the question of licensing would not arise. Otherwise, a licence could not be withheld, since that would open the door to censorship. He would be in favour of strengthening the recommendation along the lines suggested by the Chairman.

67. Mr. YUTZIS stressed that the main subject of his concern, which was relevant to article 4 as a whole, was the reliable evidence of broadcasting activities by racist organizations in Denmark.

68. The CHAIRMAN reminded members that the representative of Denmark had indicated that it was possible for such organizations to be declared illegal. It was to be hoped that the Danish Government would take that step if circumstances so warranted.

69. Mr. de GOUTTES, supported by Mr. YUTZIS, suggested that, to meet the concerns that had been expressed in the debate, the paragraph might be worded in the following, more general terms: "The Committee recommends strict application of article 4 (a) and 4 (b) to neo-Nazi groups, particularly when they operate through radio or telephone messages".

70. Mr. CHIGOVERA said that the point raised by Mr. Yutzis concerned article 4 (b), whereas paragraphs 15 and 11, reflected the Committee's concern with article 4 (a).

71. The CHAIRMAN, following an observation by Mr. WOLFRUM, suggested the following wording: "The Committee recommends the reinforcement of measures for the full implementation of article 4 (a) and (b) of the Convention and calls attention to its general recommendation XV. If the allegations in paragraph 11 above are correct, then the licences should be withdrawn and prosecutions instituted to comply with article 4 of the Convention".

Paragraph 20

72. Mr. WOLFRUM proposed the addition, at the end of the paragrapn, of the phrase "and to their compensation for relocation", for the sake of consistency with paragraph 13.

73. Mr. RECHETOV said that "indigenous peoples" should be replaced by "indigenous people".

74. The CHAIRMAN said he took it that the Committee wished to adopt the draft concluding observations concerning the tenth, eleventh and twelfth periodic reports of Denmark, subject to amendments proposed during the discussion and possible drafting and editorial changes.

75. It was so decided.

The meeting rose at 6 p.m.